

HUMAN SERVICES

OFFICE OF FINANCE

Role of the County Adjuster

Proposed Amendments: N.J.A.C. 10:7-1.1, 2.1, 4.1, 5.1, and 6.1.

Proposed New Rule: N.J.A.C. 10:7-4.2

Authorized By: Kevin M. Ryan, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:1-12, 30:4-34, 30:4-60, 30:4-60.a, 30:4-80.1, and 30:4-80.6.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: 2006-126.

Submit comments to by July 14, 2006:

E. John Walzer, Esquire

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The agency proposal follows:

Summary

In accordance with legislative mandate, the Department is proposing amendments and a new rule to N.J.A.C. 10:7, Role of the County Adjuster, affecting the financial obligations of former clients of State and county psychiatric hospitals. The proposed amendments and new rule reflect the recent statutory amendments to N.J.S.A. 30:4-60 and 30:4-80.1 et seq. (P.L. 2005, c. 55, adopted March 24, 2005) that eliminate the existing liens imposed on former clients of State and county psychiatric hospitals and prohibit the imposition of future liens for such hospital treatment.

Specifically, both the statutory and the proposed rule amendments provide that a person with mental illness 18 years of age or older shall be liable to contribute toward the cost of treatment, maintenance and all necessary and related expenses of hospitalization until the person is determined to be ineligible for or has exhausted any third party insurance benefits or medical assistance program that will pay an amount toward the facility's bill. The person's obligation for the remainder of the facility's bill will be in an amount based on the sliding scale fee schedule established for charity care pursuant to N.J.S.A. 26:2H-18.60. The obligation of a parent of a person with mental illness who is under the age of 18 shall be based on the lesser of the sliding scale fee schedule

established for charity care or the formula of financial ability to pay as promulgated annually by the Department of the Treasury.

The proposed amendments and new rule also provide that a former hospital client or a person responsible under a court order for the cost of care and maintenance of a person with mental illness who, without good cause, (a) refuses to submit information and authorizations sufficient to enable the facility to access any available third-party payer, or (b) refuses to apply for public medical assistance for which the person with mental illness may be eligible, shall be responsible for the full cost of the person's care and maintenance at the facility without the application of the criteria set forth above.

In the case of a person with mental illness who is married, the Department shall establish a spousal share of the combined assets of the couple that shall be preserved for the non-institutionalized spouse and immune from execution to satisfy the person's liability to contribute toward the cost of treatment, maintenance and all necessary and related expenses of the person's hospitalization. In order to determine the spousal share of the combined assets to be preserved, the Commissioner shall

employ the same methodology used by the State Medicaid program in accordance with N.J.A.C. 10:71-4.8(a)1.

An outline of the subchapters of this rule and proposed amendments and new rule follows.

A proposed amendment at N.J.A.C. 10:7-1.1 updates a reference to the Civil Practice Rules from 2002 to 2006.

N.J.A.C. 10:7-2.1 is proposed to be amended so that definitions for the following terms may be added: charity care fee scale, DMAHS, and discharge of lien. In addition, the existing term “county settlement” is proposed for deletion because it is no longer used in this Chapter. At N.J.A.C. 10:704.1(a)5, “county settlement” has been replaced with the more accurate term, “county of legal settlement.” Amendments to the definition for “county adjuster” are intended to clarify the responsibilities of this position. The existing phrase stating that this individual is responsible for determination of the client’s legal settlement has been deleted because the statute provides that it is the judge’s responsibility to determine legal settlement, after the county adjuster investigates this issue (N.J.S.A. 30:4-34 and 30:4-56; R. 4:74-7(i)). The definition for “legally responsible relative (LRR)” has been amended to refer only to parents of a child under 18 years of age and not a spouse of

the client, consistent with the Legislature's amendments to N.J.S.A. 30:4-66.

Several amendments are proposed in Subchapter 4 to reflect the mandates of the new legislation. At N.J.A.C. 4.1(a)4, proposed amendments add that for clients 18 years of age or older, the county adjuster shall use the eligibility criteria of the Charity Care Fee Scale. The proposed amendments further add that for the Legally Responsible Relatives of clients under 18 years of age, the Treasury Formula shall be used if the calculations produce a lesser LRR obligation. At N.J.A.C. 10:7-4.1(a)5, a proposed amendment specifies that the order transferring venue to another county must state the accepting county is the county of "legal settlement," not just the county of settlement.

Grammatical changes are proposed at N.J.A.C. 10:7-4.1(b) to specify that the county adjuster investigates, but does not determine the client's county of legal settlement.

At N.J.A.C. 10:7-4.1(c)14 proposed amendments require the county adjuster to complete the Charity Care Fee Scale or, in the case of a LRR, the Treasury Formula worksheet to determine the financial ability of the client or LRR to pay the costs of hospitalization, for the reasons stated above.

At N.J.A.C. 10:7-4.1(d), proposed amendments require the county adjuster to utilize the eligibility criteria in the Charity Fee Scale (detailed at N.J.A.C. 10:7-4.2) for clients 18 years of age or older, and/or the procedures found in the Treasury Formula for LRR(s)s of clients under 18 years of age to calculate the charge to clients or LRR(s) for each hospitalization. At N.J.A.C. 10:7-4.1(d)1, proposed amendments require the county adjuster, where appropriate, as discussed above, to use the Charity Care Fee Scale worksheet and to complete the “Charity Care Determination of Eligibility” form. Proposed new N.J.A.C. 10:7-4.1(d)2 requires that, to determine the financial ability of clients 18 years of age or older to pay for the cost of their hospital care and maintenance, the county adjuster shall use the Charity Care Fee Scale eligibility criteria, plus the annual update of income and asset standards that is distributed annually by the Department. At N.J.A.C. 10:7-4.1(d)3 (recodified from N.J.A.C. 10:7-4.1(d)2), proposed amendments require the for the LRRs of clients under 18 years of age, in order to determine the lesser obligation between the Charity Care Fee Scale and the Treasury Formula, the county adjuster shall only use the last manual published, plus the current calendar year’s update for the Treasury Formula procedures manual.

Proposed new N.J.A.C. 10:7-4.1(e) requires that where the client is married, the county adjuster shall allocate a spousal share of the

combined assets of the couple that would be immune from the hospital reimbursement obligation, for the continued financial support of the non-institutionalized spouse. In determining the amount of spousal share, the county adjuster shall use the same methodology used by the State Medicaid program for this purpose, in accordance with N.J.A.C. 10:7-4.8(a)1.

At N.J.A.C. 10:7-4.1(g) (recodified from N.J.A.C. 10:70-4.1(f)), a proposed amendment requires that support orders shall indicate whether payment is being made pursuant to the Charity Care Fee Scale or the Treasury Formula.

At N.J.A.C. 10:7-4.1(i) (recodified from N.J.A.C. 10:7-4.1(h)), an amendment is proposed to include the Charity Care Fee Scale in the report that the county adjuster submits to the court that indicates the provisions for payment of the client's expenses.

At N.J.A.C. 10:7-4.1(l)4 and 5 (recodified from N.J.A.C. 10:7-4.1(k)4 and 5), proposed amendments require the county adjuster to distribute copies of the Charity Care worksheets and form to the appropriate agency's supervisor of patient accounts.

Proposed new N.J.A.C. 10:7-4.1(m) details the responsibilities of the hospital supervisor of patient accounts in calculating the dollar amount

for the costs of hospitalization, once the Order of Settlement and Support has been issued. New paragraph (m)1 states that in cases where the financial responsibility of the client or LRR was established through the Charity Care Fee Scale, the hospital supervisor of accounts will apply the calculated percentage of responsibility to the net amount due for the specific hospitalization. New paragraph (m)2 state that where the financial responsibility of the LRR of a client under 18 years of age was established through the Treasury Formula, the hospital supervisor of accounts will apply the dollar amount from the Summary of Total Charges form as the amount due for the specific hospitalization.

New N.J.A.C. 10:7-4.1(n) states the initial contact with the client or LRR regarding the net dollar amount due for the specific hospitalization will be through correspondence generated by the hospital supervisor of patient accounts with a copy to the appropriate county adjuster.

Proposed new N.J.A.C. 10:7-4.2 delineates the Charity Care Fee Scale income criteria eligibility and documentation requirements. The county adjuster shall apply the following factors: family size (N.J.A.C. 10:7-4.2(a)), Federal poverty guidelines (N.J.A.C. 10:7-4.2(b)), and the reduced percentage of health care service charges (N.J.A.C. 10:7-4.2(c) & (d)). New N.J.A.C. 10:7-4.2(c) provides that a person who is eligible for reduced charge health services shall be charged a percentage of the



normal charge for health services in accordance with a table delineated in the subsection. The table delineates income limits ranging from a category of less than or equal to 200 percent of the HHS Poverty Guidelines paying none of the hospital charges to a category of greater than 300 percent of the HHS Poverty Guidelines paying 100 percent of the hospital charges. The reduced percentage can be applied to the total bill or to any remainder after third-party payments. Poverty thresholds are used for calculating all official poverty population statistics – for instance, figures on the number of Americans in poverty each year. The poverty guidelines are used for administrative purposes – for instance, determining financial eligibility for certain Federal programs. They are issued each year in the Federal Register by the Department of Health and Human Services (HHS) and are a simplification of the poverty thresholds, which are published by the Census Bureau. (Worldwide Web, Office of the Assistant Secretary for Planning and Education, U.S. Department of Health and Human Services). N.J.A.C. 10:7-4.2(e) details the methodology to be followed in determining the applicant's income, for the purposed of establishing eligibility for charity care or reduced charge charity care.

N.J.A.C. 10:7-4.2(f) delineates the steps to be followed by an applicant to provide the county adjuster with proof of income. The income that will be included in the determination of family income is described in

proposed new N.J.A.C. 10:7-4.2(g). The process for income determination in a case where one of a minor's divorced parents is uncooperative is detailed at N.J.A.C. 10:7-4.2(h). The process to be followed when the parents of a minor applicant are separated but not legally divorced is proposed at N.J.A.C. 10:7-4.2(i). The county adjuster may request that the applicant document living expenses pursuant to N.J.A.C. 10:7-4.2(j). Where a minor applicant documents abandonment by his or her parents, documentation of the guardian's assets and income must be provided pursuant to N.J.A.C. 10:7-4.2(k).

The conditions under which a county adjuster may accept a charity care determination from another county are detailed at proposed new N.J.A.C. 10:7-4.2(l). Proposed new N.J.A.C. 10:7-4.2(m) states that an applicant shall provide proof that his or her individual assets as of the date of service do not exceed \$7500 and that his or her family's assets, if applicable do not exceed \$15,000 as of the date of service. Proposed amendments at new N.J.A.C. 10:7-4.2(n) require the county adjuster to consider the assets of the patient and all family members, as defined at N.J.A.C. 10:7-4.2(a). For a married applicant, the spousal share of the couple's combined assets shall be determined (as required by N.J.A.C. 10:71-4.8(a)1), in line with the income limitations expressed in N.J.A.C. 10:7-4.2(m).

Proposed new N.J.A.C. 10:7-4.2(o) delineates the items to be considered as assets. The method by which the applicant must document the value of all applicable assets is set forth at N.J.A.C. 10:7-4.2(p). An applicant's assets are counted only after they have been used for payment of medical expenses pursuant to N.J.A.C. 10:7-4.2(q).

N.J.A.C. 10:7-4.2(r) gives the county adjuster the authority to require the applicant to supply all information reasonably necessary and available to substantiate the applicant's income and assets. An applicant who willfully presents false information, or fails to submit requested information without good cause, will be liable for all hospital charges pursuant to N.J.A.C. 10:7-4.2(s).

A proposed amendment to N.J.A.C. 10:7-5.1(d) specifies that the facility supervisor of patient accounts determine the billable amounts to be pursued by the county adjuster through court-ordered or voluntary contributions. A second proposed amendment requires that court-ordered contribution amounts that were based on assessments made prior to September 20, 2005, (P.L. 2005, c. 55) for clients in a DMHS or county psychiatric facility on that date shall equal the lesser of either the original calculation or the amount realized through application of the charity care fee scale (N.J.A.C. 10:7-5.1(d)).

Proposed amendments to N.J.A.C. 10:7-6.11 significantly change the section, to reflect the requirements of P.L. 2005, c. 55. The provisions delineating the lien-filing process at N.J.A.C. 10:7-6.1(b) and (c) are proposed to be deleted and will be replaced with a statement that State and county psychiatric hospitals shall no longer file statutory liens against the real and personal property of State and county settlement clients/LRRs after March 24, 2005 (the effective date of the statutory amendments).

A proposed amendment at N.J.A.C. 10:7-6.2(b) adds “discharge” to the list of requests that the county adjuster must forward to the State agency involved.

A proposed amendment at N.J.A.C. 10:7-6.2(c) replaced “liens claims” with “debts” to reflect the requirements of P.L. 2005, c. 55. Other proposed amendments to this subsection would also require county adjuster to report their findings and recommendations regarding the compromise of debts to the DHS Office of Finance, not the “ounty governing body.”

The Department is proposing to delete N.J.A.C. 10:7-6.2(c)1, 2, and 3, which delineated the role of the county adjuster in the compromise

decision. As noted above, the county entities will no longer be involved in the compromise process.

The Department is also proposing to delete N.J.A.C. 10:7-6.2(d), which concerned the request for release of property from a lien or the subordination of a lien to allow a home equity loan, second mortgage or car loan or to avoid a foreclosure proceeding. This provision is inconsistent with the recently enacted legislation, extinguishing these liens. (See amendments to N.J.S.A. 30:4-60 and N.J.S.A. 30:4-80.1 et seq, P.L. 2005, c. 55.)

As the Department is providing a 60-day public comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The proposed amendments and new rule implement the provisions of P.L. 2005, Chapter 55, which eliminated existing liens and prohibited the imposition of future liens on current and former clients of State and county psychiatric hospitals for the costs of such hospitalizations. Also pursuant to this legislation, the proposed amendments and new rule introduce the sliding scale fee schedule established for charity care as the method for determining the client's obligation

for the hospital's bill and removed a client's spouse as the legally responsible relative for the client's costs of care.

The proposed amendments and new rule are expected to positively impact current and former clients of State and county psychiatric hospitals, as they carry out the legislative mandate that releases psychiatric hospital patients and their families from burdensome liens which made it difficult for them to buy homes, automobiles and otherwise maintain a life in the community. The elimination of these liens will also free former patients and their families from the discriminatory effects of stigma, which often arose when background checks revealed the existence of these types of liens.

The elimination of liens will also result in a decreased work load for county clerks, the clerk of the Superior Court and State and county psychiatric hospital personnel, resulting in more streamlined, efficient, and effective operations, which will also benefit taxpayers.

### Economic Impact

The proposed amendments and new rules will have a positive economic impact on former clients of State and county psychiatric hospitals because they introduce the use of the Charity Care Fee Scale, which will relieve some of the financial burden of repaying the costs of hospitalization. The proposed amendments and new rule also establishes a spousal share of the combined assets of the couple that would be immune from the hospital reimbursement obligation, for the continued

financial support of the non-institutionalized spouse. The elimination of their liens will enable former hospital clients to assume other economic responsibilities (e.g. home and/or car ownership), as they move toward full participation in their communities.

The elimination of liens will reduce paperwork and other administrative expenses currently borne by the court system, State and county psychiatric hospitals and county adjuster offices.

Regarding the economic impact of the proposed amendments on taxpayers, the Senate Budget and Appropriations Committee reported that the Office of Legislative Services examined the past few years' of cost recovery for the State psychiatric hospital treatment and estimated that the elimination of liens will result in an annual reduction in State collections of between \$2.0 and 3.4 million, with the counties bearing 10% of the losses attributable to lien elimination.

#### Federal Standards Statement

The proposed amendments and new rule do not contain any standards or requirements which exceed standards or requirements imposed by Federal law. The proposed amendments contain standards that are consistent with Federal law, specifically, the Poverty Guidelines, 42 U.S.C. Section 9902(2), which are incorporated into these rules at N.J.A.C. 10:7-4.2(b).

### Jobs Impact

The proposed amendments and new rule will not result in the generation or loss of any jobs.

### Agriculture Industry Impact

The proposed amendments and new rule will have no impact on the agriculture industry.

### Regulatory Flexibility Statement

The proposed amendments and new rule have been reviewed with regard to the Regulatory Flexibility Act (Act), N.J.S.A. 52:14B-16 et seq. The proposed amendments and new rule delineate standards impacting the recordkeeping practices of State psychiatric hospitals, county adjusters, county clerks, and courts, none of which are considered small businesses under the Act, as they all employ more than 100 full-time employees or are State and county employees. Therefore, a regulatory flexibility analysis is not required.

### Smart Growth Impact

The proposed amendments and new rule have no impact on the achievement of smart growth and implementation of



the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

## SUBCHAPTER 1. GENERAL PROVISIONS

### 10:7-1.1 Purpose and scope

(a) - (b) (No change.)

(c) The rules, on the role of the county adjuster, relating to the Administrative Office of the Courts (AOC), have been written utilizing the Civil Practice Rules 4:74-7 and 4:74-7A, Civil Commitment, current during [2002] 2006. Should these civil commitment rules be changed in the future, the latest effective Civil Practice Rules 4:74-7 and 4:74-7A, Civil Commitment, shall supercede these rules, where appropriate.

## SUBCHAPTER 2. DEFINITIONS

### 10:7-2.1 Definitions

The following words and terms, when used in this chapter, shall

have the following meanings unless the context clearly indicates otherwise.

. . .

“Charity Care Fee Scale” means the progressive scale which incorporates specific asset and income eligibility standards, as described at N.J.A.C. 10:7-4.2, specifically, N.J.A.C. 10:7-4.2(c), to determine a client’s percentage of payment responsibility for a specific hospitalization.

. . .

"Compromise" means a decision made by the Office of the Commissioner[, with regard to State agencies and the county governing body or a proper committee thereof, with regard to a county psychiatric facility,] as authorized by N.J.S.A. 30:4-77 [and] , N.J.S.A. 30:4-80.6 and P.L. 2005, c. 55, to: satisfy any debt due to a State agency or county psychiatric facility, as appropriate, by accepting less than the amount owed; or release all or part of the assets subject to a lien claim for the use or benefit of the client or his or her dependents, heirs or assignees. A compromise is not necessary for the release of a lien claim if a partial payment is made that constitutes the final distributive share to a creditor (the Department or county) from the estate of a deceased client.

(N.J.S.A. 30:4-80.6)

. . .

“County adjuster” means the county official charged with the responsibility for determining the psychiatric client’s financial ability to pay the DHS psychiatric agency and/or the county psychiatric facility for the cost of care and maintenance. The individual is also responsible for [determination of the same client’s legal settlement.] filing a petition with the court to determine the client’s legal settlement and provision for payment of the client’s expense for care and treatment. This petition shall be accompanied by a report stating the results of the county adjuster’s investigation and recommendations on this matter, as required by R. 4:74-7(i). The use of this term in these rules shall mean the county adjuster or county designee.

. . .

[“County settlement” means continuous residence of a client, or parents of a child under age 18, in a county for a period of not less than five years immediately proceeding the date of application for admission/commitment, not counting time spent in any charitable or correctional institutions, or public hospital. (Refer to N.J.S.A. 30:4-49 et seq. for additional settlement criteria.)]

“Discharge of Lien” means the legal document through which a lien is removed from county or State Superior Court records.

. . .

“DMAHS” means the Division of Medical Assistance and Health Services, the division within the Department of Human Services which administers the State Medicaid program.

. . .

“Legal settlement” means the client’s legal residence, as defined by N.J.S.A. 30:4-49 et seq., which is used to determine whether the State and/or a specific county is responsible for the cost of care and maintenance of the client if he/she is unable to pay the full private rate.

"Legally responsible relative (LRR)" means a [spouse,] mother[,] or father who is statutorily responsible for [a client's] the cost of care and maintenance of a child under 18 years of age. (N.J.S.A. 30:4-66)

. . .

10:7-4.1 County adjuster's responsibilities for preparing court orders of settlement and support for clients/LRRs of DMHS and/or county psychiatric facilities

(a) The county adjuster, at the discretion of the court, shall act as referee to conduct investigations to determine each client's legal settlement and the client's/LRR's financial ability to pay for the cost

of care and maintenance. This investigation shall be a thorough and systematic attempt to learn the facts about the client's/LRR's financial circumstances and residence(s), and shall be conducted as follows:

1. – 3. (No change.)

4. [The] For clients 18 years of age or older, the county adjuster shall utilize the eligibility criteria of the Charity Care Fee Scale, as described herein at N.J.A.C. 10:7-4.2. For the LRR(s) of clients under 18 years of age, the "Methodology and Formula for Determination of Financial Ability to Pay of Clients and Legally Responsible Relatives--The Treasury Formula" procedures manual shall be utilized if the calculations produce a lesser LRR obligation. Published or updated annually, in accordance with N.J.S.A. 30:4-60, this manual assists in identifying those areas to be addressed by these investigations.

5. The county adjuster of the county of admission shall refer all cases when an investigation indicates settlement is in another county. The county adjuster of the county to which the client's case is referred shall review the information provided by the county of admission, conduct its investigation as required and respond in

writing to the referring county. If accepted, the county of admission shall obtain an order transferring venue to the county of legal settlement and the county of legal settlement will then proceed with the petition.

(b) The formal investigation of support [to determine] regarding the county of legal settlement shall, as necessary, take into consideration each of the following listed items. However, it need not be limited to just those items. The county adjuster shall:

1. – 10. (No change.)

(c) The formal investigation of support to determine financial ability of the client and/or LRR(s) to pay shall, as necessary, take into consideration each of the following listed items. However, it need not be limited to just those items. The county adjuster shall:

1. – 13. (No change.)

14. Complete the appropriate [treasury formula] Charity Care Fee Scale and, in the case of a Legally Responsible Relative (LRR), the Treasury Formula worksheets.

(d) The county adjuster shall utilize the eligibility criteria of the

Charity Care Fee Scale (as described at N.J.A.C. 10:7-4.2) for clients 18 years of age or older and/or the procedures found in the "Methodology and Formula for Determination of Financial Ability to Pay of Clients and Legally Responsible Relatives--The Treasury Formula" procedures manual, developed in accordance with N.J.S.A. 30:4-60, for the LRR(s) of clients under 18 years of age to calculate the amount of [monthly] charges to clients/LRR(s) for each hospitalization.

1. The county adjuster shall utilize the appropriate [treasury formula] Charity Care Fee Scale or Treasury Formula worksheets. The county adjuster shall complete the appropriate worksheet to the maximum extent possible. The county adjuster shall complete the "Charity Care Determination of Eligibility" form or "Summary of Total Charges" form for each client/LRR, as appropriate.

2. For clients 18 years of age or older, the county adjuster shall utilize the Charity Care Fee Scale eligibility criteria as described herein at N.J.A.C. 10:7-4.2, plus the annual update of income and asset standards for the current calendar year, which is distributed in April of each year by DHS.

[2] 3. [The] For the LRR(s) of clients under 18 years of age, in

order to determine the lesser obligation between the Charity Care Fee Scale and the Treasury Formula, the county adjuster shall only utilize the [manual or the] last manual published, plus the current calendar year's update for the [current calendar year. The]

"Methodology and Formula for Determination of Financial Ability to Pay of Clients and Legally Responsible Relatives--The Treasury Formula" procedures manual. Procedures manuals or updates are distributed in December of each year with an effective date of January 1st of the next year. Copies can be obtained from the:

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(e) In the case of a person who is married, the county adjuster shall take into account a spousal share of the combined assets of the couple that shall be preserved for the non-institutionalized spouse and immune from execution to satisfy the person's liability to contribute toward the cost of treatment, maintenance and all necessary and related expenses of the person's hospitalization. In determining the amount of the spousal share, the county adjuster



shall employ the same methodology used by the State Medicaid program, in accordance with N.J.A.C. 10:71-4.8(a)1.

[(e)] (f) (No change in text.)

[(f)] (g) Settlement orders shall not be submitted to the court making Medicaid, Medicare, or private insurance responsible for the cost of care and maintenance. Settlement orders shall only indicate that the client has county, State, or no settlement in the State or county. Support orders shall indicate whether the client and/or the LRRs are chargeable for paying all or a portion of the cost of care and maintenance pursuant to the Charity Care Fee Scale or Treasury Formula and whether the county or State is responsible for the support of the individual.

1. The only exception shall be clients who meet the requirements of N.J.S.A. 30:4C-30.1. Settlement and support orders for these clients shall indicate the county of settlement, if any, that the county is relieved of the financial responsibility for these clients under N.J.S.A. 30:4C-30.1. The orders shall indicate that the client and his or her estate remain liable for the full cost of care and maintenance allocated to them.

[(g)] (h) (No change in text.)

[(h)] (i) The county adjuster shall submit a petition for the court to determine the client's legal settlement and provision for payment of expenses of the client's care and maintenance, in accordance with Civil Practice Rules 4:74-7 and 4:74-7A, or as otherwise directed by the AOC. The county adjuster shall attach a report to the petition that includes the investigative findings and/or testimony, the [treasury formula] Charity Care Fee Scale and/or Treasury Formula worksheet(s), the results of the investigation and the recommendations for an order of settlement and support. The county adjuster shall schedule a hearing, with proper notice, for settlement and support, only if there are objections to the proposed court order. The county adjuster shall distribute a copy of the petition and report:

1. - 6. (No change.)

Recodify existing (i) and (J) as (j) and (k) (No change in text.)

[(k)] (l) The county adjuster shall distribute copies of the following documentation to the appropriate agency's supervisor of patients' accounts, or equivalent, no later than 90 days after receipt of

notification that the client is admitted/committed:

1. – 3. (No change.)

4. Charity Care Fee Scale worksheets and/or Treasury Formula worksheets;

5. Charity Care Determination of Eligibility form and/or Summary of [Monthly] Total Charges form(s); and

6. (No change.)

(m) Upon receipt of the Order of Settlement and Support from the county adjuster, the hospital supervisor of patient accounts will:

1. In cases where the financial responsibility of the client, or the LRR of a client under 18 years of age, was established through the Charity Care Fee Scale, apply the calculated percentage of responsibility to the net amount due for the specific hospitalization.

2. In cases where the financial responsibility of the LRR of a client under 18 years of age was established through the Treasury Formula, apply the dollar amount from the Summary of Total

Charges form as the amount due for the specific hospitalization.

(n) Initial contact with the client, or the LRR of a client under 18 years of age, regarding the net dollar amount due for the specific hospitalization will be through correspondence generated by the hospital supervisor of patient accounts with a copy to the appropriate county adjuster.

10:7-4.2 Charity Care Fee Scale income eligibility criteria and documentation

(a) The county adjuster shall determine the applicant's family size in accordance with this section. Family size for an adult applicant includes the applicant, spouse, any minor children whom he or she supports, and adults for whom the applicant is legally responsible. The family size for a minor applicant includes both parents, the spouse of a parent, minor siblings and any adults in the family for whom the applicant's parent(s) are legally responsible. If an applicant documents that he or she has been abandoned by a spouse or parent, that spouse or parent shall not be included as a family member. A pregnant female counts as two family members.

(b) The Poverty Guidelines, revised annually pursuant to the requirement of 42 U.S.C. 9902(2) by the United States Department of Health and Human Services (HHS), are hereby incorporated by reference. (For further information on the Poverty Guidelines, contact the Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Washington, D.C. 20201, Telephone (202) 690-6141.) A person is eligible for charity care or reduced charge charity care if he or she falls into one of the following categories:

1. A person whose individual or, if applicable, family income, as determined by (e) below, is less than or equal to 200 percent of the HHS Poverty Guidelines shall be eligible for charity care for necessary health services without cost; or

2. A person whose individual or, if applicable, family income as determined by (e) below, is greater than 200 percent of the HHS Poverty Guidelines but not more than 300 percent of these guidelines is eligible for charity care at a reduced rate as described in (c) below.

(c) A person who is eligible for reduced charge health services shall be charged a percentage of the normal charge for health services as described in the Charity Care Fee Scale below. The reduced percentage can be applied to the total bill or to any remainder after third-party payment.

<u>Income as a percentage of</u>	<u>Percentage of charges</u>
<u>HHS Poverty Guidelines</u>	<u>paid by applicant</u>
<u>&lt;200.....</u>	<u>0</u>
<u>&gt;200 to 225.....</u>	<u>20</u>
<u>&gt;225 to 250.....</u>	<u>40</u>
<u>&gt;250 to 275.....</u>	<u>60</u>
<u>&gt;275 to 300.....</u>	<u>80</u>
<u>&gt;300.....</u>	<u>100</u>

(d) If qualified medical expenses, as defined for the purposes of Federal income tax deductibility, for applicants eligible for reduced charge charity care exceeds 30 percent of the applicant's or, if applicable, family's annual gross income as calculated by (e) below, such excess will be eligible for 100 percent coverage under charity care. The 30 percent threshold must be met once per family in a 12-month period.

(e) An applicant's income, for the purpose of determining eligibility for charity care or reduced charge charity care, shall be determined as follows:

1. The applicant may provide proof of the actual gross income for the 12 months immediately preceding the services;

2. The applicant may provide proof of actual gross income for the three months immediately preceding services. The county adjuster shall multiply this amount by four to determine the gross annual income; or

3. The applicant may provide proof of actual gross income for the month immediately preceding service. The county adjuster shall multiply this amount by 12 to determine the gross annual income.

4. If the applicant provides documentation for more than one salary period specified in paragraphs (e)1 through 3 above, the county adjuster shall use the period of time during which the salary was the lowest.

5. If the applicant is a welfare recipient receiving cash benefits for

living expenses, and has not documented income as described in (e)1 through 3 above, the county adjuster shall document income status by obtaining a photocopy of the applicant's welfare identification, and document that the staff of the county adjuster obtained verification in writing or by phone of the applicant's current benefit amount from the appropriate local welfare office.

6. An applicant shall supply a signed attestation showing his or her unreported income in order that that income be considered in the eligibility determination, as described in (b) above.

(f) Applicants for charity care shall provide the county adjuster with proof of income as listed below:

1. An applicant shall provide the county adjuster with proof of income, which includes the following items: Federal or State income tax return; pay check stubs; W-2 forms; a letter from an employer on company letterhead stating the applicant's income; or a statement of the gross benefit amount from any governmental agency providing benefit to the applicant. If an applicant has been employed for at least one month, he or she may document his or her income by providing one paycheck stub immediately prior to the date of service if the paycheck stub indicates a year-to-date



income, and if the applicant documents the length of time he or she has been employed by the employer.

i. If an applicant is a recipient of Social Security benefits, he or she may document this income by either providing the annual benefits statement from the Social Security Administration, or copies of bank statements from three months prior which indicate direct deposit of the Social Security check, or a copy of one Social Security check.

ii. An applicant with no income or benefits of any type may present the county adjuster with a signed attestation to this effect. If the applicant is homeless, the county adjuster may accept a signed attestation which states that the applicant is homeless and receives no support, income or benefits.

iii. If the applicant is unable to provide one of the documents listed above in this paragraph, the county adjuster staff shall document reasons for the applicant's inability to comply and request the documentation listed in (f)2 below.

2. An applicant may document his or her income by providing one paycheck stub immediately prior to the date of service. If the

applicant is unable to provide this documentation, the county adjuster staff must document reasons for the applicant's inability to comply and request the documentation listed in (f)3 below.

3. An applicant may document his or her income by providing an attestation which states the income received in one of the time periods described in (e)1 through 3, above.

(g) For adult applicants, only the income of the applicant will be considered for the eligibility determination. For a minor applicant, the income of the family, as determined by (a) above, will be considered. In situations where a minor applicant's parents are divorced, and the custodial parent(s) are remarried, the nonparental spouse's income shall be considered. In situations where both divorced parents have responsibility for the minor applicant's medical care, each parent shall complete a charity care application. For a minor applicant, the income of the family shall be considered, except for earned income of the minor child and siblings. In cases where an adult applicant has been abandoned by a spouse, or a minor applicant has been abandoned by a parent, the applicant may document that a spouse's or parent's income is not available by the following steps in (h) below.

(h) If a minor applicant's parents are divorced, and one of the parents is uncooperative, as defined in (h)1 through 3 below, with the application process, the requirement for that parent's income may be waived by the county adjuster based on the following:

1. A parent or spouse may be deemed uncooperative if the applicant documents at least one unsuccessful attempt to obtain the necessary information from the parent or spouse;

2. The parent or spouse does not respond to a letter from the county adjuster indicating the possibility of collection or legal action if he or she does not provide the necessary information for the application; and

3. The parent or spouse does not respond to the county adjuster's in-house collection process.

(i) If a minor applicant's parents are separated, but not legally divorced, the applying spouse may document that he or she has no financial ties with the estranged spouse in accordance with (i)1 through 4 below, and the county adjuster may waive the requirement for the estranged spouse's income, if documentation has been provided in accordance with the following:

1. An applying spouse may be deemed to have no financial ties to the estranged spouse if the applying spouse provides proof to the county adjuster that he or she is not living with the estranged spouse, and does not own any property or share a lease to a rental property with the estranged spouse;

2. The applying spouse provides a copy of his or her most recent tax return indicating that he or she filed taxes separately. If estrangement occurred after filing jointly, the county adjuster may hold the application until the applying spouse files the next tax return separately. If an applying spouse does not file tax returns, he or she must sign an attestation to this effect explaining his or her reasons;

3. The applying spouse provides copies of all his or her financial accounts showing the applying spouse with sole ownership of his or her assets; and

4. The applying spouse provides an attestation stating that he or she is separated from and has no financial ties to the estranged spouse.

(j) The county adjuster may request that the applicant document his or her living expenses.

(k) A minor applicant who documents that both parents have abandoned him or her shall provide documentation of the income and assets of his or her guardian(s).

(l) The county adjuster may accept a charity care determination from another New Jersey county adjuster as proof of income, provided that the effective date of the charity care determination is not more than one year earlier than the date of service at the second hospital and that the second county adjuster verifies the determination with the county adjuster that issued the determination. The determination by the second county adjuster is valid for one year from the effective date of the first county adjuster's determination.

(m) An applicant shall provide proof that:

1. His or her individual assets as of the date of service do not exceed \$7,500; and

2. His or her family's assets, if applicable, do not exceed \$15,000

as of the date of service.

(n) The county adjuster shall consider the assets of the patient and all family members as defined in (a) above. In the case of an applicant who is married, determination of the spousal share of the combined assets of the couple will be consistent with the requirements of N.J.A.C. 10:71-4.8(a)1, except that the asset limitations set forth in (m) above shall be utilized.

(o) Assets, as used in this section, are items which are, or which can be readily converted into, cash. This includes, but is not limited to, cash, savings and checking accounts, certificates of deposit, treasury bills, negotiable paper, corporate stocks and bonds, Individual Retirement Accounts (IRAs), trust funds, and equity in real estate other than the applicant's or family's if applicable, primary residence. A primary residence, for the purposes of charity care, is defined as a structure within which the applicant currently lives or real property which the applicant owns but is not able to convey or sell because of a family member's legal or equitable interest in the property. If an applicant jointly owns assets with another person(s), for whom the applicant is not legally responsible, the value of these assets shall be prorated equally among all the owners.

(p) The applicant shall document the value of all applicable assets as described in (p)1 through 3 below.

1. The applicant shall present the county adjuster with a statement from a bank or other applicable financial institution showing the value of the asset(s) as of the date of service. If an applicant has no assets, he or she may sign an attestation to that effect, and this fulfills the requirement for proof of assets. If the applicant is unable to obtain such documentation, the county adjuster staff shall document, in writing, the reason why the proof could not be provided, and request proof of assets as described in (p)2 below.

2. The applicant shall provide the county adjuster with a statement from the bank or other applicable financial institution showing the average daily balance of the asset(s) within one month of the date of service. If the applicant is unable to obtain such documentation, the county adjuster staff shall document, in writing, the reason why the proof could not be provided, and request proof of assets as described in (p)3 below.

3. The applicant shall present the county adjuster with a signed statement attesting to the type and value of the assets.

(q) The assets of an applicant for charity care shall be counted only after the applicant has had an opportunity to apply any amount of assets in excess of the limits in (a) above toward qualified medical expenses. Qualified medical expenses are those amounts deductible for the purpose of calculation of Federal income tax liability and include expenses for psychiatric hospitalization and other mental health related costs.

(r) A county adjuster shall, as a condition of finding any applicant eligible for charity care or reduced charge charity care, require the applicant to furnish any information that is reasonably necessary to substantiate the applicant's income and assets and that is within the applicant's ability to supply.

(s) An applicant who willfully presents false information, or fails to submit requested information without good cause, will be liable for all hospital charges.

#### 10:7-5.1 County adjuster accounting procedures

(a) – (c) (No change.)



(d) The county adjuster shall actively pursue court-ordered and voluntary contributions due from county chargeable clients and/or LRRs of DMHS and/or the county psychiatric facilities, pursuant to billing by the facility supervisor of patient accounts. A monthly statement shall be issued to contributing clients and/or LRRs of DMHS and/or the county psychiatric facilities indicating the amount of contribution expected (court ordered or voluntary) for the month as well as any open balances from previous months. Court ordered contribution amounts based on assessments completed prior to September 20, 2005, the effective date of the P.L. 2005, c. 55, for clients in a DMHS or county psychiatric facility September 20, 2005, shall be the amount resulting from the original calculation or the amount resulting from utilizing the Charity Care Fee Scale, whichever is less.

(e) - (h) (No change.)

#### 10:7-6.1 Procedures for handling liens

(a) (No change.)

[(b) If after collecting third party insurance and other payments,

there is still an outstanding debt, the county adjuster, if designated, shall file a lien for the cost of care and maintenance against the real and personal property of every State and county settlement client admitted or committed to a psychiatric facility, whether or not a client has any known property. Such liens shall be filed by the chief executive officer or his or her designee or by the county adjuster on his or her specific request for authorization to the chief executive officer. The only exception is that liens for Medicaid clients shall be filed by the DMAHS. The county adjuster, when authorized, shall file the non-Medicaid liens with the county clerk, or the register of deeds and mortgages, as appropriate for that county. The county adjuster shall also file liens with the clerk of the Superior Court of New Jersey.

1. Regarding State agencies, the county adjuster, acting as an agent for a particular DHS agency, may request and be authorized in writing by the chief executive officer to file the liens required for all clients, except Medicaid clients, with their county's settlement. This authorization to file liens is in the form of a power of attorney, which shall be completed anew whenever the county adjuster and/or the person authorizing the power of attorney changes.

i. The county adjuster, if authorized to file liens by the chief

executive officer of the agency, shall file liens against LRRs of clients only when the LRR fails to pay the court ordered payments which were based on his/her ability to pay. (N.J.S.A. 30:4-80.1)

ii. The county adjuster, if authorized to file liens, shall mail a copy of the lien by certified mail, return receipt requested, to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be forwarded by regular mail to the State agency.

2. Regarding county psychiatric facilities, the county adjuster shall request authorization in writing from the chief executive officer of the county psychiatric facility to file liens against all clients, except those receiving Medicaid, in the county psychiatric facility and their LRRs, as appropriate. Liens shall be filed against LRRs only when they fail to make the court ordered payments based on their ability to pay. (N.J.S.A. 30:4-80.1)

i. The county adjuster shall mail a copy of the lien by certified mail, return receipt requested, to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be mailed to the county psychiatric facility.

3. Liens shall not be filed against those portions of bank or investment accounts, which are comprised, of Social Security, Veterans Administration, Railroad Retirement or Federal Civil Service benefits. Federal law specifies that these benefits be excluded from legal attachment.

4. Liens, on behalf of the State or county psychiatric hospitals, shall not be filed against inmates or detainees transferred from the State or county correctional systems.

(c) A lien against a client shall only be discharged after receiving payment in full for the outstanding cost of the client's non-Medicaid care and maintenance, as documented in the client profile (see N.J.A.C. 10:7-5.1(e)), or as a result of a compromise and settlement. Only the DMAHS shall discharge Medicaid filed liens. A lien against an LRR shall be discharged after receiving payment of the delinquent court ordered payments from the LRR or the client or as stipulated in a compromise and settlement.

1 Regarding State agencies, the chief executive officer of the State agency shall discharge a lien by filing a "Warrant to Enter Satisfaction" in the county or with the clerk of the Superior Court of New Jersey, depending on where the original lien(s) were filed.

i The chief executive officer shall mail a copy of the "Warrant to Enter Satisfaction" to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be mailed to the county adjuster if the involved client has county settlement.

2. Regarding county psychiatric facilities, the chief executive officer of a county psychiatric facility or his or her designee shall discharge a lien by filing a "Warrant to Enter Satisfaction" with the county or with the clerk of the Superior Court of New Jersey, depending on where the original lien(s) were filed.

- i. The chief executive officer of a county psychiatric facility or his/her designee shall mail a copy of the "Warrant to Enter Satisfaction" to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be mailed to the county adjuster to be placed in the client's file.]

(b) State or county psychiatric hospitals shall no longer file statutory liens against the real and personal property of State and county settlement clients/LRR(s) after March 24, 2005.

10:7-6.2 Procedures for compromises, settlements, discharges, releases of property from liens and lien subordinations

(a) (No change.)

(b) Regarding State agencies, the county adjuster shall forward all requests for compromises, settlements, discharges, releases of property from liens and lien subordinations to the State agency involved. The county adjuster shall be notified of a compromise by the State or by an original request. The county adjuster shall include his or her written opinion and any additional information on the request in the package sent to the appropriate State agency. The agency will process the request and the DHS, Office of Finance, will notify the county adjuster of the decision and action taken.

(c) Regarding county psychiatric facilities, the county adjuster shall investigate, gather testimony in the form of findings and conclusions and make recommendations to the [county governing body] DHS, Office of Finance, concerning the compromise of [lien claims] debts for current and former clients and/or LRRs of clients in county psychiatric facilities.

[1. The county adjuster shall request an opinion from the DHS, Office of Finance, on all compromises where the State is a creditor party to the lien.

2. The county adjuster shall notify the DHS, Office of Finance, within 30 calendar days, of all compromises of liens and provide the appropriate credit on the State Aid reimbursement report that is filed monthly by the county with DMHS. The credit shall reflect the State's share of the funds received. The State and county shall share the funds received in the same ratio as the reasonable cost of maintenance and clothing are the responsibility of the State and county for the service period(s) covered by the lien(s) and the compromise settlement.

3. The county adjuster shall mail a copy of the letter of approval/disapproval of a compromise offer to the client, the LRR, or the person with power of attorney over the client's assets. A copy of this letter shall also be forwarded to the DHS, Office of Finance.

(d) Regarding county psychiatric facilities, on occasion, requests may be received from clients, former clients or LRRs to permit the

release of specified property from a lien or to subordinate a lien. Generally these requests are as a result of a desire to secure a home equity loan, second mortgage, car loan or to avoid a foreclosure proceeding. Each request shall be reviewed on a case-by-case basis and the approval/disapproval of the request should be documented to the requester and in the client's file. By subordinating the lien or releasing only specified property from the lien, the county and State are able to maintain their claims for potential collection in the future.

1. If a lien has encumbered a savings or investment account which is exclusively Social Security, Veterans Administration, Railroad Retirement or Federal Civil Service benefits, the chief executive officer of the county psychiatric facility or his or her designee (the county adjuster if so designated) shall immediately release the account from the lien by filing a "Release of Property from Lien" form. Federal law specifies that these benefit funds are immune from legal attachment.

2. The chief executive officer of the county psychiatric facility or his or her designee (the county adjuster if so designated) shall file the "Release of Property from Lien" and "Lien Subordination Form" with the county or with the clerk of the Superior Court of New



Jersey, depending on where the original lien(s) were filed.]